MT LEGISLATIVE HISTORY

Chapter 384 1989

Bill H _____ (S) 321 Original bill & hist. ✓C

H. Committee on Natural Resources		S. Committee on Natural Resources	
Hearing Date(s) Mar 08	✓C	Hearing Date(s) Feb 13	✓C
Mar 13	✓C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Mar 14	✓C	_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

SENATE BILL NO. 321

INTRODUCED BY BECK, HARPER

IN THE SENATE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
FEBRUARY 15, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
FEBRUARY 16, 1989	PRINTING REPORT.
FEBRUARY 17, 1989	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 18, 1989	ENGROSSING REPORT.
FEBRUARY 20, 1989	THIRD READING, PASSED. AYES, 44; NOES, 6.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 19, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 21, 1989	FIRST READING.
MARCH 14, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 15, 1989	SECOND READING, CONCURRED IN.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 92; NOES, 4.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 22, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

BILL NO. 321

INTRODUCED BY Beck Hagner

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE MONTANA HAZARDOUS WASTE ACT; TO APPLY CERTAIN PROVISIONS SPECIFICALLY TO UNDERGROUND STORAGE TANKS AND REGULATED SUBSTANCES; TO AUTHORIZE NOTIFICATION AND PERMIT FEES; TO CREATE AN UNDERGROUND STORAGE TANK SPECIAL REVENUE ACCOUNT; AMENDING SECTIONS 75-10-401 THROUGH 75-10-403, 75-10-405, 75-10-410, 75-10-411, 75-10-415, 75-10-416, AND 75-10-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

It is the intent of the legislature that the department of health and environmental sciences adopt rules setting forth corrective action requirements for releases from underground storage tanks and standards for tank closures.

It is the intent of the legislature that the department have the authority to develop and implement a schedule of fees to be collected for underground storage tank notifications and permits. The fees should be set at a level to defray state and local costs of implementing an underground storage tank program.

It is the intent of the legislature that the department be able to delegate authority and funds to local agents for inspections and for other duties related to the underground storage tank program.

LC 0851/01

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-10-401, MCA, is amended to read:

"**75-10-401. Short title.** This part shall be known and may be cited as the "Montana Hazardous Waste and Underground Storage Tank Act"."

Section 2. Section 75-10-402, MCA, is amended to read:

"**75-10-402. Findings and purpose.** (1) The legislature finds that the safe and proper management of hazardous wastes, the permitting of hazardous waste facilities, and the siting of such facilities are environmental issues that should properly be addressed and controlled by the state rather than by the federal government.

(2) It is the purpose of this part and it is the policy of this state to protect the public health and safety, the health of living organisms, and the environment from the effects of the improper, inadequate, or unsound management of hazardous wastes; to establish a program of regulation over the generation, storage, transportation, treatment, and disposal of hazardous wastes; to assure the safe and adequate management of hazardous wastes within this state; and to authorize the department to adopt, administer, and enforce a hazardous waste program pursuant to the

INTRODUCED BILL
SB 321

federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 - 6987), as amended.

(3) The legislature also finds that petroleum products and hazardous substances stored in underground tanks are a separate category of substances that are regulated under the federal Resource Conservation and Recovery Act of 1976, as amended, and must be addressed and controlled properly by the state under the Montana Hazardous Waste and Underground Storage Tank Act. It is the purpose of this part to authorize the department to establish, administer, and enforce an underground storage tank leak prevention program for these regulated substances. The department may use the authority provided in 75-10-413 through 75-10-417 and other appropriate authority provided by law to remedy violations of underground storage tank requirements established under this part."

Section 3. Section 75-10-403, MCA, is amended to read:

"75-10-403. Definitions. Unless the context requires otherwise, in this part the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(3) "Dispose" or "disposal" means the discharge,

injection, deposit, dumping, spilling, leaking, or placing of any regulated substance or hazardous waste into or onto the land or water so that the regulated substance, hazardous waste, or any constituent of ~~it~~ the regulated substance or hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(4) "Facility" or "hazardous waste management facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.

(5) "Generation" means the act or process of producing waste material.

(6) "Generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under this part.

(7) (a) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

(i) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

(b) Hazardous wastes do not include those substances governed by Title 82, chapter 4, part 2.

(8) "Hazardous waste management" means the management of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.

(9) "Hazardous waste transfer facility" means any land, structure, or improvement, including loading docks, parking areas, holding sites, and other similar areas, used for the transfer and temporary storage of hazardous wastes and where shipments of hazardous waste are temporarily held for a period of 10 days or less during the normal course of transportation up to but not including the point of ultimate treatment, storage, or disposal.

(10) "Manifest" means the shipping document originated and signed by the generator and which is used to identify the hazardous waste, its quantity, origin, and destination during its transportation.

(11) "Person" means the United States, an individual, firm, trust, estate, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for

profit or not.

(12) "Regulated substance":

(a) means:

(i) a hazardous substance as defined in 75-10-602; or

(ii) petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute);

(b) does not include a substance regulated as a hazardous waste under this part.

(13) "Storage" means the actual or intended containment of regulated substances, hazardous wastes, or both, either on a temporary basis or for a period of years.

(14) "Transportation" means the movement of hazardous wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

(15) "Transporter" means a person engaged in the offsite transportation of hazardous waste by air, rail, highway, or water.

(16) "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste or so as to render it nonhazardous, safer for transportation, amenable

for recovery, amenable for storage, or reduced in volume.

(17) "Underground storage tank":

(a) means, except as provided in subsections (17)(b)(i) through (17)(b)(viii):

(i) any one or combination of tanks ~~(including connected underground pipes)~~ used to contain a regulated substance, the volume of which ~~(including the volume of the connected underground pipes)~~ is 10% or more beneath the surface of the ground; and

(ii) any underground pipes used to contain or transport a regulated substance and connected to a storage tank, whether the storage tank is entirely above ground, partially above ground, or entirely underground;

(b) does not include:

(i) a septic tank;

(ii) a pipeline facility (including gathering lines) regulated under:

(A) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671, et seq.);

(B) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001, et seq.); or

(C) state law comparable to the provisions of law referred to in subsection (17)(b)(ii)(A) or (17)(b)(ii)(B), if the facility is intrastate;

(iii) a surface impoundment, pit, pond, or lagoon;

(iv) a storm water or wastewater collection system;

(v) a flow-through process tank;

(vi) a liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

(vii) a storage tank situated in an underground area, such as a basement, cellar, mine, draft, shaft, or tunnel, if the storage tank is situated upon or above the surface of the floor; or

(viii) any pipe connected to a tank described in subsections (17)(b)(i) through (17)(b)~~(vii)~~(vi)."

Section 4. Section 75-10-405, MCA, is amended to read:

"**75-10-405. Administrative rules.** (1) The department may adopt, amend, or repeal rules governing hazardous waste, including but not limited to the following:

(a) identification and classification of those hazardous wastes subject to regulation and those that are not;

(b) requirements for the proper treatment, storage, transportation, and disposal of hazardous waste;

(c) requirements for siting, design, operation, maintenance, monitoring, inspection, closure, postclosure, and reclamation of hazardous waste management facilities;

(d) requirements for the issuance, denial, renewal, modification, and revocation of permits for hazardous waste

management facilities;

(e) requirements for corrective action within and outside of facility boundaries and for financial assurance of that corrective action;

(f) requirements for manifests and the manifest system for tracking hazardous waste and for reporting and recordkeeping by generators, transporters, and owners and operators of hazardous waste management facilities;

(g) requirements for training of facility personnel and for financial assurance of facility owners and operators and for liability of guarantors providing financial assurance;

(h) requirements for registration of generators and transporters;

(i) a schedule of fees for hazardous waste management facility permits and registration of hazardous waste generators;

(j) a schedule of fees to defray a portion of the costs of establishing, operating, and maintaining any state hazardous waste management facility authorized by 75-10-412;

(k) requirements for availability to the public of information obtained by the department regarding facilities and sites used for the treatment, storage, and disposal of hazardous wastes; and

(l) other rules which are necessary to obtain and

maintain authorization under the federal program.

(2) The department may not adopt rules under this part that are more restrictive than those promulgated by the federal government under the Resource Conservation and Recovery Act of 1976, as amended, except that the department:

(a) may require the registration of transporters not otherwise required to register with the state of Montana pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended;

(b) may require generators and facilities to report on an annual rather than on a biennial basis; and

(c) may adopt requirements for the prevention and correction of leakage from underground storage tanks, including:

(i) reporting by owners and operators;

(ii) financial responsibility;

(iii) release detection, prevention, and ~~correction~~ corrective action; and

(iv) standards for design, construction, and installation, and closure;

(v) development of a schedule of fees for tank notification and permits to defray state and local costs of implementing an underground storage tank program; and

(vi) delegation of authority and funds to local agents

for inspections and implementation;

(d) may adopt regulatory requirements for hazardous waste transfer facilities; and

(e) shall require the owner or manager of any proposed commercial facility for the storage, collection, or transfer of hazardous waste to conduct a public hearing, as provided for in 75-10-441."

Section 5. Section 75-10-410, MCA, is amended to read:

"75-10-410. Inspections -- sampling. (1) (a) An employee or agent of the department, at any reasonable time and upon presentation of credentials, may enter upon and inspect any property, premises, or place at which:

(i) regulated substances are or have been stored in underground storage tanks;

(ii) hazardous wastes are or have been generated, stored, treated, disposed of, or loaded for transportation; or ~~any property, premises, or place at which~~

(iii) records pertinent to ~~such~~ the regulated substances or hazardous waste activities are maintained.

(b) The employee or agent of the department may have access to and may copy any records relating to ~~such~~ the regulated substances or hazardous wastes for the purposes of developing rules under this part or enforcing the provisions of this part, rules adopted under this part, or a permit or an order issued under this part.

(2) In the course of an inspection under this section, the employee or agent of the department may take samples of any substances or wastes, including samples from any soil or groundwater or from any vehicle in which wastes are transported, or samples of any containers or labeling for ~~such~~ the substances or wastes. If the employee or agent of the department takes a sample of any hazardous waste or suspected hazardous waste, he shall, prior to leaving the premises, give to the owner, operator, or agent in charge a receipt describing the sample taken and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis must be furnished to the owner, operator, or agent in charge."

Section 6. Section 75-10-411, MCA, is amended to read:

"75-10-411. ~~Hazardous~~ Regulated substance and hazardous waste site inventory. (1) The department is authorized to conduct an inventory of sites and locations in the state where regulated substances or hazardous wastes have been stored or disposed of at any time.

(2) If the department determines that the presence of a regulated substance or hazardous waste or the release of the regulated substance or waste or any waste constituent at ~~any such site~~ may present a substantial hazard to public health or the environment, it may issue an order requiring

the owner or operator of the facility or site to conduct reasonable monitoring, testing, analysis, and reporting with respect to the site in order to ascertain the nature and extent of the hazard.

(3) An order issued under subsection (2) must require that the person to whom the order is issued submit to the department within 30 days a proposal for carrying out the required monitoring, testing, analysis, and reporting.

(4) If the department determines that no owner or operator is able to conduct monitoring, testing, and analysis in a satisfactory manner, the department may conduct such activities.

(5) For the purposes of carrying out this section, the department may exercise the powers set forth in 75-10-410."

Section 7. Section 75-10-415, MCA, is amended to read:

"**75-10-415. Imminent hazard.** Upon receipt of evidence that the handling, storage, treatment, transportation, or disposal of any regulated substance or hazardous waste may present an imminent and substantial danger to public health or the environment, the department may commence legal proceedings to immediately restrain or enjoin any person contributing to such handling, storage, treatment, transportation, or disposal from engaging in such activities or take such other action as may be necessary."

Section 8. Section 75-10-416, MCA, is amended to read:

"**75-10-416. Cleanup orders.** The department may issue a cleanup order to any person who has discharged, deposited, or spilled any regulated substance or hazardous waste into or onto any land or water in an unlawful or unapproved manner or who has discharged, deposited, or spilled any material or substance into or onto any land or water so as to result in unlawful or unapproved disposal of a regulated substance or hazardous waste ~~disposal~~. The order shall direct the person to clean up and remove the regulated substance or hazardous waste, treat ~~it~~ the regulated substance or hazardous waste so as to render it nonhazardous, or to take such other actions as may be considered reasonable by the department."

Section 9. Section 75-10-420, MCA, is amended to read:

"**75-10-420. Venue for legal ~~proceedings~~ actions.** All legal ~~proceedings~~ actions affecting hazardous waste management facilities in the state ~~shall~~ must be brought in the county in which the facility is located. All legal actions affecting underground storage tanks or the disposal of regulated substances must be brought in the county where the underground storage tank is located or in the first judicial district, Lewis and Clark County, whichever the department considers appropriate."

NEW SECTION. **Section 10.** Underground storage tank special revenue account. (1) There is an underground storage

tank account within the state special revenue fund established in 17-2-102. There must be paid into the account:

(a) revenues from underground storage tank permit and notification fees; and

(b) corrective action costs, damages, and penalties recovered under section 9003 of the federal Resource Conservation and Recovery Act of 1976, as amended.

(2) Appropriations may be made from the underground storage tank account for the following purposes only:

(a) state and local government costs of implementing the underground storage tank leak prevention program; or

(b) state and local government costs relating to the investigation of leaking underground storage tanks.

NEW SECTION. **Section 11.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 12.** Codification instruction. [Section 10] is intended to be codified as an integral part of Title 75, chapter 10, part 4, and the provisions of Title 75, chapter 10, part 4, apply to [section 10].

NEW SECTION. **Section 13.** Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before

[the effective date of this act].

NEW SECTION. **Section 14.** Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 15.** Effective date. [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB321, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act entitled, "An act to generally revise the Montana Hazardous Waste act; to apply certain provisions specifically to underground storage tanks and regulated substances; to authorize notification and permit fees; to create an underground storage tank special revenue account; amending Sections 75-10-401 through 75-10-403, 75-10-405, 75-10-410, 75-10-411, 75-10-415, 75-10-416, and 75-10-420, MCA; and providing an immediate effective date."

ASSUMPTIONS:

1. "Annual" tank permit fees of $50.00 each on 10,000 tanks out of a known population of 18,000 (small farm and heating oil tanks mostly exempted) less an initial 20% non-compliance rate.
2. It will take an additional 4.0 FTE to implement this legislation. These 4.0 FTE will be funded with the proposed fee funds.

FISCAL IMPACT:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Revenues:	$ -0-	$400,000	$ 400,000	$ -0-	$400,000	$ 400,000
Expenditures:	$ -0-	$400,000	$ 400,000	$ -0-	$400,000	$ 400,000
Net Effect:	$ -0-	$ -0-	$ -0-	$ -0-	$ -0-	$ -0-

Fund Impact:

Legislation establishes a new underground storage tank special revenue fund for implementation of state and local UST programs. State program staff to operate where local jurisdictions are unable or unwilling to participate. New fund provides previously unavailable program funding. Revenue deposits are to the new special revenue fund. UST program expenditures are defrayed by same fund.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Provide funds to local health or fire agencies to conduct tank facility inspections of installations, leak detection methods, inventory record review, tank testing and compliance monitoring. Leak prevention requirements must be enforced with routine education and compliance inspections. Funds available for local assistance are estimated to be $205,087 in FY90 and $262,604 in FY91 based upon the $50 fee in assumption #1.

Ray Shackleford DATE 2/10/89
RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Tom Beck DATE 2/10/89
TOM BECK, PRIMARY SPONSOR

Fiscal Note for SB321, as introduced

SB 321

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Thomas F. Keating, on February 13, 1989, at 1:00 pm, Room 405 of the State Capitol

ROLL CALL

Members Present: Senators: Thomas F. Keating, Chairman, Larry Tveit, Fred Van Valkenburg, Loren Jenkins, Darryl Meyer, Pete Story, Bill Yellowtail, Elmer Severson, Cecil Weeding, Dorothy Eck, and Jerry Noble.

Members Excused: None

Members Absent: Lawrence Stimatz

Staff Present: Bob Thompson and Helen McDonald

EXECUTIVE ACTION

SB 211

Senator Noble moved the bill DO NOT PASS in its original form. Six voted for and five voted against, with Senator Stimatz being absent. Senator Keating stated that if the vote ties, the motion fails and the bill remains on the table.

Upon the return of Senator Stimatz, Senator Keating explained to him about SB 211. Senator Stimatz voted no, thereby tying the vote. SB 211 was tabled. Motion fails. (Exhibit 4)

SB 321

Senator Keating stated that SB 321 is Senator Beck's bill on underground tanks and there are several sets of amendments. (Exhibits 1, 2, & 3) Senator Jenkins moved the amendments. These amendments were brought up during the discussion of the bill. One section of the amendments states fees are "not to exceed $50 per tank". Implementation could run into some problems so the second amendment reads: "The delegation of authority to local agents must complement and may not duplicate existing authority for implementation of rules adopted by the state fire marshal that relate to underground storage tanks." Another amendment specifies that the department may inspect tanks only "if the

department has reason to suspect that the tanks are not in compliance with the provisions of this part or rules adopted under this part."

Senator Keating asked for comments or questions.

Bob Thompson noted that section #2 of the amendment on the delegation of authority held by the state is also addressed by one of Senator Beck's proposed amendments.

Senator Keating suggested segregating section #2 of Senator Eck's amendments from sections 1, 3, 4, & 5.

Senator Van Valkenburg wondered if there would be enough money to pay for the FTE that the fiscal note talks about employing. One man who was here said that a cap of somewhere around $50 per tank would cover everything.

Senator Weeding Stated if section #2 was adopted would there be a conflict when we get to section #3.

Larry Mitchell thought that the local agent through the department could have authority because there can be a delegation of authority, although the authority remains with the department until delegated. There would not be a conflict between section #3 on Senator Jenkins' amendments and section #2 on Senator Beck's amendment.

Bob Thompson stated that his answer originally was in response to sections #2 and #3 to Senator Jenkins' amendment.

Larry Mitchell stated that section #2 on Senator Beck's amendment would be the one that concerns what the state fire marshal has expressed about the need to coordinate enforcement. The state fire marshal would be concerned about public safety requirements and the Department of Health would be concerned with underground storage tanks and preventing leaks to underlying water reserves.

Senator Keating wondered if section #3 on Senator Jenkins' sheet overlapped section #2 on both Senators Jenkins' and Beck's amendments.

Larry Mitchell stated that once a tank is closed the concern is that liability may remain and that amendment simply says the department may go back in and inspect tanks.

Senator Weeding wanted to know if in section #3 the department had reason to suspect that 10% of the tanks in the state leak. Does this amendment restrict the department in seeking on these tanks? There would have to be some

physical evidence before the department could monitor a tank.

Larry Mitchell stated he believes the amendment is in response to Mr. Mockler's concern that the department could come back in on a closure and require additional testing and monitoring at a site that had already been closed. That would not occur unless there was evidence of an impact on ground water in the area. The department would check all the active sites and if there were some closures four years ago in the same location then it could double check to make sure they were properly closed.

Senator Keating asked for other questions. A vote was taken on sections 1. 2. 3. 4. & 5. of Senator Jenkins' amendments. The amendments passed.

Senator Jenkins stated that both Senator Beck's section #2 and his section #2 address the same topic.

Bob Thompson stated that Senator Beck had requested two changes. The first would go into the statement of intent. The amendment suggests that it is the intent of the legislature that the underground storage tank program be implemented in a manner consistent with the rules stated by the fire marshal and conducted in a cooperative effort. The second section of Senator Beck's amendment suggests that if any rule promulgated under the underground storage tank rulemaking section affects the authority provided by the state fire marshal, then the rule must also be approved by the state fire marshal. This amendment would ensure that the state fire marshal could implement the uniform fire code and other rules that he administers.

Senator Keating wanted to know if there is a conflict between the two amendment sections.

In general, Bob Thompson thought not. However, there could be a conflict if the approval of the state fire marshal was not obtained and that prevented the department from administering its program according to the requirements of the Environmental Protection Agency.

Senator Jenkins asked if this program would be completely under the fire marshal, although it is administered by the Department of Health.

Bob Thompson indicated that the language was written narrowly so that the approval of the fire marshal would only be required when his authority was affected. If there is any rule adopted by DHES that affects the fire marshal, then in that "zone" of rules there could be some conflict. If

there is no effect on the fire marshal's authority, then there would be no need for his approval.

Senator Eck moved that we adopt both of the amendment sections proposed by Senator Beck. The #2 amendment is specific so that there won't be any doubt about the meaning of coordinating.

Senator Story had misgivings because if the fire marshal's and DHES's standards are different for underground storage tanks, then who should be in charge. In the case of houses and aboveground storage tanks where the chief problem is the possibility of an explosion that sort of thing is the problem of the fire marshall, but not for underground tanks. Senator Story noted the underground tanks at the Burlington Northern yard in Livingston and some of the gas stations that are threatening Livingston's water supply. He wants the agency in charge who has the best resources to handle the problem. Who would be in the best position to do something? If there is any question about creating a second agency to get into the business of worrying about leaking tanks, Senator Story thought the authority should go to the DHES and not the fire marshal's office.

Senator Keating wanted to hear from the fire marshal regarding underground tanks.

The fire marshal stated the uniform fire code contains about 110 pages that deals with flammable liquid and storage in general. There are very specific requirements that deal with underground storage tanks and those are the requirements currently used by DHES for regulating their program along with the federal requirements. The fire marshal's office tries to cooperate as fully as possible with the DHES in developing rules and some of these programs.

Senator Keating asked if the fire marshal's codes deal primarily with the installation of storage tanks.

The fire marshal stated they deal with installation, fuel, monitoring of the tank, and maintenance. The existing codes talk about using the stick method and the inventory method to make sure they are not losing product into the soil. In the cities enforcement people are the local fire departments. Unfortunately, nobody has the manpower to check on the more rural stations to make sure that they are following the codes.

Senator Jenkins stated that this is probably your amendment that we have here.

The fire marshal stated that was correct.

Senator Jenkins indicate one rule must be approved by you and the other one says it must complement and not duplicate your authority.

The fire marshal stated he was more responsible for the wording in Senator Beck's amendment. He added that uniform fire code is not the only code used.

Senator Severson wanted to know if local fire departments enforce something like this since he thought most fire departments in Montana would are volunteer fire departments.

The fire marshal indicated that the biggest share of the fire departments doing underground storage tank enforcement are paid departments. He stated a couple of rural fire districts and some volunteer fire departments are doing some active enforcing.

Senator Eck indicated it was her understanding that the fire department supervises the installation of the tank. Does the DHES ever do it?

The fire marshal answered that the fire departments and the local health authorities are there sometimes.

Senator Eck stated it was her understanding that in order to get liability insurance there had to be an inspection of the installation. Can that service be provided now?

The fire marshal indicated the fire departments don't have a form for inspections but will provide a written verification of an inspection.

Senator Eck wanted to know if Montana is going to rely on somebody to do inspections.

Senator Keating stated this bill deals with the working of underground tanks that are thought to be leaking and was not sure that what Senator Eck was getting into was germane to the bill.

Senator Keating added that what the committee is dealing with here is two things. The fire marshal is fulfilling his job under the codes. Now some new legislation is giving the DHES authority to do things that the fire marshal does not address. There will be overlapping to some extent between what the DHES and the fire marshal do, particularly in regard to installation and monitoring of underground storage tanks. Does the amendment that Senator Jenkins proposed say that the delegation of authority must complement and not

duplicate the fire marshal's duties help the DHES implement its program.

Larry Mitchell indicated that the department tries to work closely with the fire marshal and to not contradict or go in a different direction from the fire codes. The federal regulations cite NFPA standards and fire codes. The only real major departure from what has already been in existence for 20 years in fire codes is the EPA mandate to require some additional leak protection. The DHES needs the help of the local fire departments, local health departments, and building inspectors. The primary purpose of this bill is to generate some tank fees to get this done.

Senator Keating indicated that the DHES is going to touch many more tanks than the fire marshal.

Larry Mitchell stated this bill only regulates underground tanks.

Senator Keating indicated that the fire marshal has a superior objective here and the DHES will complement his objective.

Larry Mitchell stated the department would like to count on their help to prevent leaks.

Senator Keating asked if it mattered to DHES which amendments are used.

Larry Mitchell preferred Senator Jenkins' amendments over the others, noting that fire codes have a lot of exceptions.

Senator Jenkins made a substitute motion that SB 321 be amended with his section #2 along with Senator Beck's amendment to the statement of intent. Motion carried.

Senator Tveit moved to amend to follow the federal rules that exempt home-farm and residential tanks under 1100 gallons or less that store motor fuel for noncommercial purposes. Several other states have exempted farm tanks.

Senator Keating questioned if this includes diesel or gasoline tanks above ground with no lines or connections of metal ground pipes going underground.

Larry Mitchell stated that if the tank is above ground and there are no underground pipes, even under the existing law that tank would not be regulated under the underground storage program.

Larry Mitchell indicated that what Senator Tveit's amendment

would do is to remove from regulation underground tanks used for farm or residential purposes of 1100 gallons or less. Aboveground tanks are exempt from whatever program the State of Montana develops for underground storage tanks.

Senator Van Valkenburg asked if DHES had a position in regard to this amendment.

Larry Mitchell indicated the DHES opposes the amendment because there is no valid reason to exempt tanks by size. Farm-home tanks would not be regulated as heavily as the major commercial tanks. He added that the federal laws exempt these tanks, but there is really no environmental reason to exempt them.

Senator Story questioned whether a person that puts in a 1100 gallon tank or less would be able to financially comply with the rules.

Senator Tveit thinks this is a case of the federal government saying certain tanks are exempt and the state saying they are not exempt. The state should not be any stricter than the feds in this particular area.

Senator Tveit's amendment to SB 321 failed on a 6-6 tie (Exhibit #5)

Senator Weeding moved that SB 321 do pass as amended. Motion carried.

ADJOURNMENT

Adjournment At: 2:00 p.m.

Thomas F. Keating

THOMAS F. KEATING, Chairman

TFK/hmc
senmin.213

ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 2-13-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz		✓	
Senator Pete Story	✓		
Senator Bill Yellowtail	✓		
Senator Elmer Severson	✓		
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 14, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration SB 321 (first reading copy -- white), respectfully report that SB 321 be amended and as so amended do pass:

1. Page 2.
Following: line 2
Insert: "It is the intent of the legislature that the underground storage tank program be implemented in a manner consistent with rules adopted by the state fire marshal as they relate to underground storage tanks; that the program not duplicate inspections and existing regulatory efforts conducted under the uniform fire code; and thathe department and local health and fire officials work together cooperatively in implementing a program for the prevention of leakage from underground storage tanks."

2. Page 10, line 22.
Following: "fees"
Insert: "not to exceed $50 per tank"

3. Page 11, line 1.
Following: "implementation"
Strike: ":"
Insert: ". The delegation of authority to local agents must complement and may not duplicate existing authority for implementation of rules adopted by the state fire marshal that relate to underground storage tanks."

4. Page 11, line 14.
Following: "tanks"
Insert: "if the department has reason to suspect that the tanks are not in compliance with the provisions of this part or rules adopted under this part"

5. Page 14, line 21.
Following: "or"
Insert: ", if mutually agreed upon by the affected parties,"

6. Page 14, line 22.
Following: "County"
Strike: ", whichever the department considers appropriate"

AND AS AMENDED DO PASS

Signed: Thomas F. Keating
Thomas F. Keating, Chairman

Statement of Intent adopted.

2/15/89 7:40 a.m.

scrsb321.214

SENATE NATURAL RESOURCES
EXHIBIT NO. 11
DATE 2-13-89
BILL NO. SB 321

Proposed Amendments to SB 321
First Reading Copy
Requested by Senator Loren Jenkins

1. Page 10, line 22.
Following: "fees"
Insert: "not to exceed $50 per tank"

2. Page 11, line 1.
Following: "implementation"
Strike: ";"
Insert: ". The delegation of authority to local agents must complement and may not duplicate existing authority for implementation of rules adopted by the state fire marshal that relate to underground storage tanks."

3. Page 11, line 14.
Following: "tanks"
Insert: "if the department has reason to suspect that the tanks are not in compliance with the provisions of this part or rules adopted under this part"

4. Page 14, line 21.
Following: "or"
Insert: ", if mutually agreed upon by the affected parties,"

5. Page 14, line 22.
Following: "County"
Strike: ", whichever the department considers appropriate"

SENATE NATURAL RESOURCES
EXHIBIT NO. 2
DATE 2-13-89
BILL NO. SB 321

Amendments to Senate Bill No. 321
Introduced Copy

Requested by Senator Beck
For the Senate Committee on Natural Resources

February 13, 1989

1. Page 2.
Following: line 2
Insert: "It is the intent of the legislature that the underground storage tank program be implemented in a manner consistent with rules adopted by the state fire marshal as they relate to underground storage tanks; that the program not duplicate inspections and existing regulatory efforts conducted under the uniform fire code; and that the department and local health and fire officials work together cooperatively in implementing a program for the prevention of leakage from underground storage tanks."

2. Page 11.
Following: line 7
Insert: "(3) If any rule promulgated under subsection (2)(c) would affect authority provided to the state fire marshal under 50-3-102 and 50-3-103, the rule must be approved by the state fire marshal."

SENATE NATURAL RESOURCES
EXHIBIT NO. 3
DATE 2-13-89
BILL NO. SB 321

Amendments to Senate Bill No. 321
First Reading Copy

Requested by Senator Larry Tveit
For the Senate Committee on Natural Resources

Prepared by Bob Thompson
February 13, 1989

1. Page 7.
Following: line 14
Insert: "(i) a farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;"
Renumber: subsequent sections

ROLL CALL VOTE

Tveit Amendment
Amends to SB 321

SENATE COMMITTEE NATURAL RESOURCES

SENATE NATURAL RESOURCES
EXHIBIT NO. 5
DATE 2-13-89
BILL NO. SB 321

Date 2-10-89 Bill No. SB 321 Time

NAME	YES	NO
Vice-Chairman Larry Tveit	✓	
Senator Fred VanValkenburg		✓
Senator Loren Jenkins	✓	
Senator Darryl Meyer	✓	
Senator Lawrence Stimatz	✓	
Senator Pete Story		✓
Senator Bill Yellowtail		✓
Senator Elmer Severson	✓	
Senator Cecil Weeding		✓
Senator Dorothy Eck		✓
Senator Jerry Noble		✓
Chairman Tom Keating	✓	
	6	6

Secretary Chairman

Motion: Tveit amendment - fail

1989

HEARING ON SB 321

Presentation and Opening Statement by Sponsor:

SENATOR TOM BECK, Senate District 24, opened on the Underground Storage Tank Bill, SB 321. He said storage tanks had been buried for the past 15 to 20 years that had life expectancies of 15 to 20 years. He said there were 30,000 of these tanks estimated in Montana, of which 3,000 to 10,000 were leaking. He said the leaks had contaminated drinking water, saturated soil with toxic substances, and created fire and explosive hazards. He said this bill met federal requirements to do something about this problem. He said the bill allowed the Solid and Hazardous Waste Bureau of the Department of Health and Environmental Sciences (DHES) to get involved in monitoring underground storage tanks in the state.

SEN. BECK said the bill passed unanimously out of the Senate Natural Resources Committee. He said it had a few amendments. One addressed the rulemaking authority, a concern of the Fire Marshall; the other allowed tanks of 1,100 gallons or less to be charged a lesser fee. He said representatives of DHES could answer any other questions.

Testifying Proponents and Who They Represent:

Larry Mitchell, Underground Storage Tank Program Manager, Solid Waste Division, DHES
Chris Kaufmann, Montana Environmental Information Center
Ben Havdahl, Montana Motor Carriers Association
Ray Blehm, State Fire Marshall

Proponent Testimony:

LARRY MITCHELL testified as set forth in EXHIBITS 16 and 17.

CHRIS KAUFMANN, MEIC, testified in support of the bill.

BEN HAVDAHL went on record in support of the bill.

RAY BLEHM said the amendments were placed on the bill at his request. He said the State Fire Marshall had been the regulatory for underground storage tanks for four decades, while the DHES had been regulating them since 1985. He said the tanks were leaking because the codes dealing with installation were not adequate. He said the main reason for the Senate amendments was to ensure that the regulations passed by the State Fire Marshall and those promulgated by DHES would not conflict.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. GIACOMETTO asked how this bill would affect HB 603. MR. MITCHELL said if this bill worked, the Underground Storage Tank Leak Prevention Program, HB 603 would not be needed. The problem was that this program was not up and running. HB 603 was basically a catch-up measure, he said, to take care of leaks already occurring. He said HB 603 would mesh with this bill. He said SB 371 gave authority to the department to adopt rules and regulations for tank closure, tank installation, new tank design standards and financial responsibility. He said financial responsibility was the kicker. He said the federal financial responsibility rule was out now, and you needed $1,000,000 responsibility for clean-up and third-party damages. HB 603 set up a state fund that would assume financial responsibility for tank owners, a fund that would pick up, in lieu of $1,000,000 cash in the bank, the financial responsibilities of clean-up costs and third party damages.

REP. HARPER asked what effect the Senate's reduction of fees on small tanks would have. MR. MITCHELL said there would be no impact, because no figure had been considered for the small tanks in the fiscal note.

REP. OWENS asked if anyone knew the number of tanks involved. MR. MITCHELL said no one knew the number. The state recently adopted a notification process, and 18,254 tanks were now in the state's data base. After a statistician's review, the conclusion was that the actual number was closer to 30,000 tanks. He said 75% of the commercial tanks and 40% of the smaller tanks had now notified.

REP. RANEY said only 9,000 of those tanks would come under HB 603, and of those, several thousand had already been replaced.

Closing by Sponsor:

SEN. HAGER closed, saying that the same bill had been defeated on the floor of the Senate two years earlier. He said the process had been prolonged, and urged concurrence on the bill.

ADJOURNMENT

Adjournment At: 6:15 p.m.

REP. RANEY, Chairperson

BR/cm

5412.min

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2-8-87

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

EXHIBIT 16
DATE 2-8-89
HB SB 321
Sen. Bus.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

Underground Storage Tank Program
(406) 444-5970

Date: February 8, 1989

Title: SB 321 Statement, Larry Mitchell

In 1984, Congress established a federal program to address leaks from underground storage tanks. The 1985 Legislature established the UST program in Montana by amending the Hazardous Waste Act. EPA finalized federal minimum regulations for states to implement on December 22, 1988. DHES expects to adopt regulations for Montana's program and obtain state program approval from EPA during 1989.

SB 321 is an important bill which corrects and clarifies the original 1985 state legislation that established the tank program in Montana. That authority was granted by amending the state hazardous waste act. However, the hazardous waste act controls improper management and disposal of hazardous wastes. The tank program regulates a different class of materials defined as regulated substances. These are essentially petroleum fuels and chemical products. When they leak out of tanks, they can cause serious damage to groundwater and vapors can force evacuation of homes and businesses due to health or fire dangers and they must be cleaned up. However, these substances are not generally categorized as hazardous wastes; diesel soaked dirt for example.

However, the existing cleanup authority in the hazardous waste act forces DHES to treat them, contaminated soils and water as hazardous wastes in order to require clean up.

The 1985 Legislature overlooked the need to amend the term "regulated substances" into the cleanup authorities of the hazardous waste act. This bill seeks to correct that problem by adding the words "regulated substances" to several sections of the hazardous waste law that will help in requiring cleanup when groundwater and property are threatened. This will put DHES authority in line with federal EPA authority to address regulated substances under the tank program along with the existing authority to address hazardous wastes in the Hazardous Waste Act.

SB 321 also authorizes DHES to establish a schedule of tank fees to help support the implementation of the tank leak prevention program. Federal EPA rules on leak detection and tank upgrading requirements are now final.

EXHIBIT 16
DATE 2-8-89
HB SB 321

UST program needs include training of local officials, tank owners and operators, inspections of new tank installations, tank closures, and routine tank facility inspections by state and local officials to assure compliance with state and federal leak detection and inventory management requirements.

Since state groundwater resources are most directly impacted by leaking tanks, Congress and EPA anticipate that states will need to provide additional funding in order to implement this program. As of August 1988 nineteen states have established annual tank fees as their state program funding mechanism. Nine states have utilized petroleum product use or transfer fees.

EPA grants now support 75% of the 4.5 FTE Montana state program. There are over 18,000 tanks at more than 9,000 facilities subject to the leak prevention, leak detection requirements. Additional resources will be required at the state and local level to assure that voluntary compliance with the rules and increased owner/operator education will prevent disastrous, bankrupting tank leaks from continuing to occur.

In summary, SB 321 will correct the 1985 legislative omission and solidify the foundation of the underground storage tank program. It will clarify the Legislature's intent that the enforcement authorities in the hazardous waste law also apply to the regulated substances included in the tank program without having to treat them as hazardous waste.

SB 321 will also provide a funding mechanism that will help assure that impacts from leaking tanks are minimized through state and local implementation of rules designed to prevent leaks and detect them early before serious and costly damage can occur.

statesb.321

REGISTRATION AND PERMIT FEES BY STATE

	California	Delaware	Florida	Idaho
What is the funding mechanism used?	Tank fee	Tank fee	Tank fee	Tank fee
When was the fee established?	1984	1/1/88	1987	1988
Who pays?	Tank owners	Tank owners and operators	Owners of above and below ground tanks	1. Registration fee for owners and operators registered after 1/1/88. 2. Annual tank fee for owners and operators
What is the fee structure and how often is it collected?	1. Annual permit fee that varies among local agencies 2. Per tank state surcharge set annually by legislature and collected once in five years (current surcharge fee is $38)	$50/tank annually; $30/tank for late payment of annual fee	1. $50/tank initial registration fee 2. $25/tank annual renewal fee	1. $500/tank one-time registration fee 2. $100/tank annual fee between 1/1/88 and 12/31/91
Is there a maximum assessment?	NO	NO	NO	NO
Are there any exemptions or restrictions on that which is assessed?	1. Annual permit fee may be waived for state, local and farm tank owners (1100-1500 gal capacity)	State and county municipal tanks are exempt; restricted to petroleum tanks only	Petroleum tanks < 550 gal. are exempt	--
Is there a cap on total revenues? (If so, what?)	NO	NO	NO	NO
Is there a sunset provision? (If so, when?)	Yes; local agencies with own ordinance currently collecting state surcharge stop collecting it on 1/1/90	NO	NO	Yes; 1991
Are any changes planned or anticipated?	NO	Amendment to HB231 anticipated to create UST Response Fund	May be amended to include chemical tanks	
Used for prevention and/or cleanup program?	Prevention program	Prevention and Cleanup programs	Prevention program	Cleanup program

	Nevada	Kansas	Texas	Kentucky
What is the funding mechanism used?	Sale activity fee	Tester registration fee	Tank fee	Tank fee
When was the fee established?	1988	1988	1986; revised in 1987	1984
Who pays?	Installers, repairers and removers of USTs	Tank tightness testers	Tank owners	Tank owners
What is the fee structure and how often is it collected?	$100/sale activity M-F; $200/sale activity Sat., Sun. or holiday	$100/tester annually	1. $10/tank one-time registration fee 2. $15/tank annual permit fee	$3/tank annually
Is there a maximum assessment?	NO	NO	NO	NO
Are there any exemptions or restrictions on that which is assessed?	--	--	Tanks < 1100 gal. are exempt	Farm tanks; only collected on petroleum product tanks
Is there a cap on total revenues? (If so, what?)	NO	NO	NO	NO
Is there a sunset provision? (If so, when?)	YES; 1991	YES; 1991	NO	NO
Are any changes planned or anticipated?	NO	NO	NO	YES
Used for prevention and/or cleanup program?	Prevention program	Prevention program	Prevention and Cleanup programs	Prevention program

	Louisiana	Maine
What is the funding mechanism used?	Tank fee	Tank fee
When was the fee established?	1988	1988
Who pays?	Tank owners	Dealers and marketers
What is the fee structure and how often is it collected?	1. $25/tank one-time registration fee for chemical tanks $15/tank one-time registration fee for petroleum tanks 2. $15/tank annually for > 10000 gal. $10/tank annually for 2000-9999 gal $5/tank annually for ≤ 1000-1999 gal	1. $50/tank one-time registration fee 2. $25/tank annually for < 5000 gal. $50/tank annually for ≥ 5000 gal.
Is there a maximum assessment?	1. $1000/location on registration fees for petroleum 2. No ceiling on annual fees	--
Are there any exemptions or restrictions on that which is assessed?	Same as in EPA proposed regulations	--
Is there a cap on total revenues? (If so, what?)	NO	--
Is there a sunset provision? (If so, when?)	NO	--
Are any changes planned or anticipated?	Looking into changing to tax on gasoline	
Used for prevention and/or cleanup program?	Prevention and Cleanup programs	Prevention program

EXHIBIT 1
DATE 2-22-91
SB

REGISTRATION AND PERMIT FEES BY STATE
(continued)

	Washington	New Jersey
What is the funding mechanism used?	Tank fee	Facility fee
When was the fee established?	1986	1986
Who pays?	Tank owners	Facility owners
What is the fee structure and how often is it collected?	1. $5/tank one-time registration fee 2. $7.50/tank annually for < 2500 gal. $10/tank annually for ≥ 2500 gal. and < 5000 gal. $12.50/tank annually for ≥ 5000 and < 7500 gal. $15/tank annually for ≥ 7500 gal	$100/facility annually for facilities with 1-5 tanks; $15/tank addl. annual for each tank over 5 at a facility
Is there a maximum assessment?	NO	NO
Are there any exemptions or restrictions on that which is assessed?	NO	NO
Is there a cap on total revenues? (If so, what?)	NO	NO
Is there a sunset provision? (If so, when?)	NO	NO
Are any changes planned or anticipated?	Program will be reviewed. A "Superfund" bill for corrective action will be reintroduced in 1988.	NO
Used for prevention and/or cleanup programs?	Prevention and Cleanup programs	Prevention program

	New Mexico	New York	New York	Ohio
What is the funding mechanism used?	Tank fee	Tank fee (Hazardous Substances)	Facility fee (Petroleum)	Tank fee
When was the fee established?	6/1/88	1986	1983	1988
Who pays?	Tank owners	Tank owners	Facility owners	Tank owners
What is the fee structure and how often is it collected?	$28/tank annually in 1988; Subsequent fees to be established by NM Environmental Improvement Board	$50/tank every 2 yrs. for < 550 gal. $100/tank every 2 yrs. for ≥ 550 and < 1100 gal. $125/tank every 2 yrs. for ≥ 1100 gal.	$50/facility every 5 yrs. for >1100 and < 5000 gal. $150/facility every 5 yrs. for ≥ 5000 and < 10000 gal. $250/facility every 5 yrs. for ≥ 10000 gal.	$20/tank every 3 yrs paid fund, petroleum
Is there a maximum assessment?	NO	$50,000/site*	NO	NO
Are there any exemptions or restrictions on that which is assessed?	Same as in EPA proposed regulations except heating oil tanks	Process, farm and movable tanks are exempt	Facilities < 1100 gal. are exempt	State and local government tanks are exempt
Is there a cap on total revenues? (If so, what?)	NO	NO	NO	NO
Is there a sunset provision? (If so, when?)	NO	NO	NO	NO
Are any changes planned or anticipated?	NO	NO	NO	--
Used for prevention and/or cleanup program?	Prevention program	Prevention program	Prevention program	Prevention and Cleanup programs

	Oregon	Texas	Utah	Vermont
What is the funding mechanism used?	Tank fee	Tank fee	Tank fee	Tank fee
When was the fee established?	2/88	1987	1987	1987
Who pays?	Tank owners or operators	Tank owners	Tank owners	Tank owners or operators
What is the fee structure and how often is it collected?	1. $25/tank one-time permit application fee 2. $25/tank annual compliance fee ($20/tank annually after 7/1/89)	$25/tank annually maximum	$25/tank annually*	$25/tank annually
Is there a maximum assessment?	NO	NO	YES, $100/tank**	--
Are there any exemptions or restrictions on that which is assessed?	Tanks exempt per Subtitle I of RCRA are exempt	Permanently out-of-service tanks are exempt	NO	--
Is there a cap on total revenues? (If so, what?)	NO	NO	NO	--
Is there a sunset provision? (If so, when?)	NO	NO	Annual legislative approval required	--
Are any changes planned or anticipated?	NO	NO	YES	--
Used for prevention and/or cleanup program?	Prevention program	Prevention and Cleanup programs	Prevention program	Prevention program

* Maximum assessment for facility with multiple tanks.

* Authority to $100/tank, with public hearings required to raise the rate.

** The 1988 Legislature provided for a legislative task force to examine the entire state UST issue. Accommodations on their findings will be made this year. A $40/tank assessment has been proposed.

EXHIBIT 17
DATE 3-8-89
HB
SB 324

VISITORS' REGISTER

Natural Resources COMMITTEE

BILL NO. SB 321 DATE 3-8-89

SPONSOR Sen. Beck

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
[illegible]	CHEVRON	AMEND	
[illegible]	DHES	✓	
[illegible]	DHES	✓	
Donna Alexander	MT. Petroleum Marketers	✓	
Ray Bleken	St Fire Marshal	✓	
Jim Mockler	MT. Coal Council	✓	
Janelle Fallan	MPA	—	
Bart Howdeshell	MMCA	✓	
Chris Kaufman	MEIC	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on March 13, 1989, at 3:40 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Claudia Montagne, Secretary; Hugh Zackheim, Staff Researcher, Environmental Quality Council

Announcements/Discussion: REP. RANEY announced that a gray bill had been prepared for the Infectious Waste Bill, HB 676, with approximately 75 amendments, many of which were technical and 10 of which were substantive. He said the bill would be reviewed by the affected and interested parties for comment before executive action.

DISPOSITION OF SB 321

Hearing 3/8/89

Motion: REP. MOORE moved that SB 321 BE CONCURRED IN.

Discussion: REP. RANEY asked the staff researcher to review the intent of the bill, and its relationship to HB 552. MR. ZACKHEIM said SB 321 revised the Hazardous Waste Act to bring Montana's program into equivalency with the federal act, including recent federal requirements for corrective action with regards to leaks from underground tanks. It also authorized DHES to establish a fee for tank registrations, $50 for large tanks and $20 for small tanks. He said HB 552 set up a separate licensing and permitting process for the installation or removal of underground tanks. The bills were complementary.

MR. ZACKHEIM said HB 552 was awaiting the signature of the Governor on a bill that would exempt that program from the sunrise provisions that would have required the Legislative Audit Committee to review that bill. He said his understanding was that the two bills could be separated, and that SB 321 could be acted on separately.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously.

HEARING ON SJR 13

Presentation and Opening Statement by Sponsor:

SEN. DARRYL MEYER, Senate District 17, said this was a committee bill that originated in Business and Industry Committee promoting recycling and litter abatement. It commended groups and projects that promoted such activities, such as the Boy Scouts.

Testifying Proponents and Who They Represent:

Mike Lightle, Keep Montana Clean and Beautiful
C.B. Pearson, Common Cause
Kim Wilson, Montana Chapter, Sierra Club
Jim Jensen, Montana Environmental Information Center
Scott Snelson, Montana Wildlife Federation
Kathy Macefield, self, Helena

Proponent Testimony:

MIKE LIGHTLE, Executive Director of the organization Keep Montana Clean and Beautiful, said the committee's endorsement of the resolution would give recognition to many groups who have done similar litter clean-up projects in the past. It would aid in the recruitment of many new clubs and organizations for the spring clean-up program. It would acknowledge the efforts of many volunteer groups, such as the Boy Scouts, the Helena Hometown Pride Organization, Yellowstone County Bright and Beautiful and the Chamber of Commerce.

MR. LIGHTLE said Keep Montana Clean and Beautiful was one of the newest such programs, one which also promoted recycling. The organization also made Montana citizens aware that materials had use and value beyond their original purpose. He said they assisted organizations who wanted to begin recycling programs.

C.B. PEARSON, Executive Director of Common Cause in Montana, said they were supportive of the resolution with an amendment, which he distributed (EXHIBIT 1). He said they would like to see no reference to any specific group in the resolution. He said Common Cause's concern and contention was that the resolution was misguided in that it was self serving to Keep Montana Clean and Beautiful.

MR. PEARSON referred to the Articles of Incorporation of the organization and attached expenditure documents (EXHIBIT 2),

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 3-13-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

CS-30

STANDING COMMITTEE REPORT

March 14, 1989

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 321 (third reading copy -- blue) be concurred in .

Signed: _____
Bob Raney, Chairman

[REP. HARPER WILL CARRY THIS BILL ON THE HOUSE FLOOR]